EXCITE
TELECOM•INC•

September 1, 2009

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Suite TW-A325
Washington, D.C. 20554

Re: *Docket No. 09-28: In the Matter of Petition of OLS, Inc. and TeleUno, Inc. For Declaratory Ruling Regarding the Application of Sections 201(b) and 203(c) to Underlying Carrier's Practices and Charges*

Dear Secretary Dortch:

Excite Telecom, Inc. ("Excite") hereby submits its comments in support of OLS, Inc.'s and TeleUno, Inc.'s (collectively "the Companies") Petition for Declaratory Ruling in the above-captioned proceeding. Excite is an international long distance carrier and prepaid calling card provider that was engaged in the resale of Global Crossing Telecommunications Inc.'s ("Global Crossing") wholesale services.

Excite was a customer of Global Crossing beginning in mid-2007. For nearly two years, Excite purchased telecommunications services from Global Crossing as if it were a retail enterprise customer, even though Global Crossing was well aware of Excite's status as a telecommunications carrier. Excite was subsequently transitioned to a wholesale agreement and obtained telecommunications services from Global Crossing on a discounted, wholesale basis, prior to reselling these services to the public in the form of prepaid domestic and international calling services. Through the course of its business relationship with Global Crossing, Excite encountered issues with Global Crossing's billing and sales practices similar to those outlined in the Companies' Petition. As a result of Global Crossing's practices, including its refusal to honor agreements and its refusal to properly process billing disputes – and despite having executed an agreement with the company's General Counsel, purporting to settle these disputes — Excite recently canceled all services with Global Crossing, in part due to Global Crossing's failure to implement the terms of the parties' settlement agreement.

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In the dispute that was purportedly resolved through an executed settlement agreement, it was Excite's contention that Global Crossing repeatedly imposed invalid rates and charges upon Excite during the course of the parties' relationship. Excite maintained that these invalid charges stemmed from Global Crossing's having improperly established an "enterprise" or commercial account relationship with Excite – an improper business relationship that Global Crossing perpetrated for almost two years. Excite possesses internal Global Crossing correspondence which provides support for its position that Global Crossing improperly induced Excite to execute an "enterprise" rather than "wholesale" contract under false pretenses, despite the clear requirements of FCC regulations which, before the enterprise agreement was signed, unequivocally established Excite as a telecommunications reseller – specifically of "prepaid calling card" services.

While operating under the enterprise agreement, Global Crossing collected "USF" and "Cost Recovery" charges from Excite. Because Excite was acting as a carrier/reseller and was a direct contributor to the Universal Service Fund and other federal regulatory programs (collectively hereinafter referred to as "USF"), Excite contends that Global Crossing's assessment and collection of USF and Cost Recovery fees was not proper or valid. At no point in time was Excite ever an "end user" of Global Crossing's services, and Excite has reason to believe that Global Crossing was aware of these facts when it imposed and collected the charges at issue.

In addition to the wrongful imposition and collection of the USF and Cost Recovery fees, Global Crossing also sought to impose and collect minimum usage guarantees ("MUGs") from Excite – similar to the MMUCs cited in the Companies' Petition. It is Excite's position that the disputed MUG charges were unenforceable against Excite because the parties agreed, in writing, to waive such charges. However, despite the parties' written agreement that MUGs would be waived, Global Crossing continued to bill such charges and insist on payment.

Finally, Excite's experience in disputing Global Crossing's invalid charges was similar to that described by the Companies in their Petition. In short, Excite experienced a pattern and practice in the manner that Global Crossing billed and levied improper charges and exercised overall non-responsiveness when confronted with billing disputes. Excite contends that Global Crossing's non-responsiveness to billing disputes was designed to avoid the issuance of credits Excite believed to be due and owing.

Excite maintains that Global Crossing's conduct faced by both Excite and the Companies violates Sections 201(b) and 203(c) of the Communications Act. Given that such conduct adversely impacted more than one carrier and does not represent an isolated event, Commission action on the Companies' Petition is even more imperative. Otherwise, carriers with superior market power and resources could be encouraged to abuse smaller carriers and impede competition in contradiction of the requirements and stated goals of Congress and the FCC.

Respectfully submitted,

/s/ Ryan Snapper

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